



MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, MARCH 7, 2006

The Council of the City of San José convened in regular session at 9:30 a.m. in the Mayor's Conference Room T1841, at City Hall.

Present: Council Members - Campos, Chavez, Chirco, LeZotte, Nguyen, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - Cortese. (Excused)

Upon motion unanimously adopted, Council recessed at 9:34 a.m. to a Closed Session in Room T1841, (A) to confer with Legal Counsel pursuant to Government Code Section 54956.9 subsection (a) with respect to existing litigation to consider the case of: (1) City of San José, et al. v. County of Santa Clara, et al; (2) County of Santa Clara, et al. v. City of San José, et al; (3) City of San José v. JMP Golf Design Group, et al. (B) to confer with Legal Counsel pursuant to Government Code Section 54956.9, with respect to anticipated litigation (1) subsection (b) significant exposure in two (2) matters. (C) to confer with Labor Negotiator pursuant to Government Code Section 54957.6, City Negotiator: City Manager designee Alex Gurza, and the following Employee Organizations: (1) San José Police Officers' Association; (2) International Association of Firefighters; (3) Operating Engineers, Local 3.

By unanimous consent, Council reconvened from the Closed Session and recessed at 11:02 a.m. and reconvened at 1:35 p.m. in the Council Chambers.

Present: Council Members - Campos, Chavez, Chirco, Cortese, LeZotte, Nguyen, Pyle, Reed, Williams, Yeager; Gonzales.

INVOCATION

Reverend Gerald Sakamoto from the San José Buddhist Church Betsuin. (District 3)

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

Access the video, the agenda and related reports for this meeting by visiting the City's website at www.sanjoseca.gov/clerk/MeetingArchive.asp

ORDERS OF THE DAY

Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager and carried unanimously, the Orders of the Day and the Amended Agenda were approved, with Items 11.5 and 11.10 continued to 3/21/06. (11-0.)

CEREMONIAL ITEMS

- 1.1 Presentation of a commendation to the San José Junior Sharks in recognition of their outstanding success. (Chavez)**
(Deferred from 2/14/06 – Item 1.3)

Action: Dropped.

- 1.3 Swearing in ceremony for District 10 Youth Commissioner. (City Clerk)**
To be heard in the Evening.

Action: Deferred to 3/21/06.

- 1.5 Presentation of a commendation to Ken Kelly for his exemplary dedication and invaluable contributions to the San José community. (LeZotte/Mayor)**
(Rules Committee referral 3/1/06)

Action: Mayor Gonzales and Council Member LeZotte recognized and commended Mr. Ken Kelly for his outstanding dedication and important contributions to the City of San José.

- 1.6 Presentation of a commendation to Cathy Morrey for her exemplary dedication and invaluable contributions to the City organization. (City Manager/Mayor)**
(Rules Committee referral 3/1/06)

Action: Mayor Gonzales and City Manager Les White recognized and commended Ms. Cathy Morrey for her commendable dedication and invaluable contributions to the City of San José.

- 1.7 Presentation of a commendation to MAI Rose Industries for its important contribution to the San José economy. (Mayor/Reed)**
(Rules Committee referral 3/1/06)

Action: Mayor Gonzales and Council Member Reed recognized and commended MAI Rose Industries for its significant contributions to the San José economy.

- 1.10 Presentation of a commendation to Irene Dalis, founder and General Director of Opera San José, in recognition of her extraordinary and lasting contributions to the cultural vibrancy of the San José community. (Yeager)**
(Rules Committee referral 3/1/06)
To be heard in the evening.

Action: Dropped.

- 1.12 Presentation of a commendation to Nancy Finkeldei, for her excellent work in her community and dedication with SNI, NAC, and the Weed and Seed Program. (Cortese)**

Action: Mayor Gonzales and Council Member Cortese recognized and commended Ms. Nancy Finkeldei for her outstanding work in the community of San José.

CONSENT CALENDAR

Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (11-0.)

- 2.1 Approval of minutes.**
- (a) Regular minutes of June 7, 2005.**
 - (b) Special minutes of June 13, 2005.**
 - (c) Regular minutes of June 14, 2005.**
 - (d) Regular minutes of June 21, 2005.**
 - (e) Joint San José Financing Authority minutes of June 21, 2005.**
 - (f) Regular minutes of June 28, 2005.**

Documents Filed: The Regular Minutes dated June 7, 2005, June 14, 2005, June 21, 2005 and June 28, 2005. The Special Minutes dated June 13, 2005. The Joint San José Financing Authority Minutes dated June 21, 2005.

Action: The minutes were approved. (11-0.)

- 2.3 Adoption of a resolution authorizing the City Manager to negotiate and execute a third amendment to the agreement with Corlett, Skaer & DeVoto Architects, Inc. for consultant services related to noise attenuation of properties located within the Noise Impact Area, modifying the compensation provisions for reimbursable expenses and defining the consultant services to be provided to the Department of Public Works for acoustical treatment of homes impacted by Public Works road projects, increasing the maximum compensation by \$465,108 from \$7,330,066 to a not to exceed amount of \$7,795,174, and extending the term from June 30, 2007 to June 30, 2008. CEQA: Resolution Nos. 67380 and 71451, PP 05-283; PP03-06-209. (Airport)**

2.3 (Cont'd.)

Documents Filed: Memorandum from Director of Aviation William Sherry and Director of Public Works Katy Allen, dated February 17, 2006, recommending adoption of a resolution.

Action: [Resolution No. 73086](#), entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a Third Amendment to the Agreement with Corlett, Skaer & Devoto Architects, Inc. for Their Consultant Services Related to Noise Attenuation of Properties Located Within the Noise Impact Area, Increasing the Compensation by \$465,108 and Extending the Term from June 30, 2007 to June 30, 2008", was adopted. (11-0.)

2.4 **Rejection of all bids for the purchase of Chevrolet Impala Police Vehicles for the General Services Department/Fleet Management Division and authorization to the Director of Finance to re-solicit the Request for Bid. CEQA: Not a Project. (Finance)**

Documents Filed: Memorandum from Director of Finance Scott Johnson, dated February 17, 2006, recommending rejection of all bids and authorization to re-solicit.

Action: The action to reject all bids and re-solicit the Request for Bid was approved. (11-0.)

2.5 **Adoption of a resolution summarily vacating a portion of the alley lying at the rear yard of 671 South 11th Street. CEQA: Exempt, PDC00-115. Council District: 3. (Public Works)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated February 13, 2006, recommending adoption of a resolution. (2) Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated February 7, 2006, transmitting the Planning Commission recommendation.

Action: [Resolution No. 73087](#), entitled: "A Resolution of the Council of the City of San José Summarily Vacating a Portion of the Alley Lying in the Rear Yard of 671 S. 11th Street, Mid-Block Between 10th and 11th Streets and Approximately 140 Feet North of Margaret Street", was adopted. (11-0.)

2.6 **Adoption of a resolution to consider the establishment of a Rule 20A Underground Utility District along Naglee Avenue between Bascom Avenue and Park Avenue and along Park Avenue between Naglee Avenue and Hanchett Avenue, setting a public hearing on March 28, 2006, at 1:30 p.m. CEQA: Exempt, PP06-002. Council District: 6. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated February 13, 2006, recommending adoption of a resolution.

2.6 (Cont'd.)

Public Comment: William Garbett spoke in favor of the staff recommendation.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager and carried unanimously, [Resolution No.73088](#), entitled: “A Resolution of the Council of the City of San José Setting the Time and Place for a Public Hearing to Consider the Establishment of a Rule 20A Underground Utility District along Park Avenue from Bascom Avenue to Naglee Avenue; Naglee Avenue from Park Avenue to Shasta Avenue, on March 28, 2006 at 1:20 p.m.”, was adopted. (11-0.)

2.7 Adoption of a resolution to:

- (a) **Join with the County of Santa Clara and five other cities in applying for the U.S. Department of Justice FY 2006 Edward Byrne Memorial Justice Assistance Grant (JAG); and,**
 - (b) **Accept the grant, if awarded; and authorize the City Manager to execute all related grant agreements with the County of Santa Clara including a Memorandum of Understanding with the other participating jurisdictions.**
- (Police)**

Documents Filed: Memorandum from Police Chief Robert Davis, dated March 1, 2006, recommending adoption of a resolution.

Action: [Resolution No. 73089](#), entitled: “A Resolution of the Council of the City of San José Authorizing the City to Join with the County of Santa Clara and Five Other Cities to Apply to the United States Department of Justice for a FY 2006 Edward Byrne Memorial Justice Assistance Grant in a Amount Not To Exceed \$396,632, to Accept the Grant if Awarded, and to Execute All Related Documents”, was adopted. (11-0.)

2.8 Approval of Mayor Gonzales’ travel to Washington, D.C., March 8 through March 10, 2006 to attend an award presentation from Partnership for Livable Communities. Funding Source: Mayor’s Office. (Mayor)

Documents Filed: Memorandum from Mayor Gonzales, dated March 2, 2006, requesting approval of travel.

Public Comment: George Fokos expressed his desire to travel with Mayor Gonzales to Washington, D.C.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager, and carried unanimously, Mayor Gonzales’ travel was approved. (11-0.)

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session

Mayor Gonzales, Chair

- (a) 2005-2006 Proposed Operating Budget Study Sessions dated May 9-18, 2005.**

Action: Deferred to March 14, 2006.

- (b) Evergreen Visioning Plan Study Session dated June 8, 2005.**

Documents Filed: Minutes of the Evergreen Visioning Plan Study Session, dated June 8, 2006

Action: Upon motion by Council Member Yeager, seconded by Council Member Cortese and carried unanimously, the Minutes were accepted, with a minor correction. (10-1. Noes: LeZotte.)

3.2 Report of the Rules Committee – February 22, 2006

Vice Mayor Chavez, Chair

Documents Filed: The Rules Committee Report dated February 22, 2006.

- (a) Redevelopment Agency items reported out at Redevelopment Agency meeting**

- (b) City Council**

- (1) Review March 7, 2006 Draft Council Agenda**

The Committee recommended approval of the March 7, 2006 Draft City Council Agenda with two additions.

- (2) Add New Items to February 28, 2006 Council Agenda**

The Committee recommended approval of the February 28, 2006 City Council Agenda with two additions.

- (3) List of Reports Outstanding. Attachment: Report from the City Manager dated February 21, 2006, transmitting reports outstanding for February 28, 2006.**

The Committee noted and filed the City Manager's Report.

- (c) Legislative Update**

- (1) State**

- (a) Statewide Infrastructure Bonds: Transportation and Proposition 42**
This item was reported at the February 28, 2006 City Council Meeting, Item 3.2(c)(1)(a).

3.2 Report of the Rules Committee – February 22, 2006 (Cont'd.)
Vice Mayor Chavez, Chair

(c) Legislative Update (Cont'd.)

(1) State

(b) Statewide Infrastructure Bonds: Affordable Housing

This item was reported at the February 28, 2006 City Council Meeting, Item 3.2(c)(1)(b).

(2) Federal - There was no report.

(d) Meeting Schedules. Attachment: Memorandum from Redevelopment Agency Director Harry S. Mavrogenes, dated February 21, 2006, recommending rescheduling the study session.

The Committee agreed to reschedule the Ballpark Study Session from March 2, 2006 to March 1, 2006, from 9:00 a.m. to Noon.

(e) The Public Record - There were no public record items this week.

(f) Appointments to Boards, Commissions and Committees

- (1) Recommend four Council Member appointments to Project Diversity Screening Committee. Attachment: (1) Memorandum from Council Member Reed, dated January 25, 2006, recommending an appointment. (2) Memorandum from Council Member Yeager, dated February 6, 2006, recommending two appointments. (3) Memorandum from Council Member Cortese, dated February 9, 2006, recommending two appointments.

The Committee recommended appointment of Michael Leung, Mike Gallagher, Rick Partridge and Isaiah White the Project Diversity Screening Committee. The Committee forwarded the recommended nomination of Dahlia Eltoumi to the Mayor.

(g) Rules Committee Reviews, Recommendations and Approvals

- (1) Report on Cellular Communication Coverage at City Hall. Attachment: Memorandum from Interim Chief Information Officer Randall Murphy, dated February 17, 2006, transmitting the report.
(Deferred from 2/15/06 Rules Committee)

The Committee accepted the Status Report and recommended that Staff report back to the Rules Committee after the Request for Information (RFI) on relevant products that may be utilized to improve cellular reception within the building and garage is completed. The RFI is due to the City on March 6, 2006.

3.2 Report of the Rules Committee – February 22, 2006 (Cont'd.)
Vice Mayor Chavez, Chair

- (g) Rules Committee Reviews, Recommendations and Approvals (Cont'd.)
 - (2) Addition of Redevelopment Agency Disposition and Development Agreements to the City Auditor's 2005-2006 Work Plan. Attachment: Memorandum from City Auditor Gerald Silva, dated February 17, 2006, recommending the addition of audits.

The Committee recommended the addition of audits of the Redevelopment Agency Disposition and Development Agreements.

- (h) Open Forum - There were none presented.
- (i) Adjournment - The meeting was adjourned at 2:25 p.m.

Council Member Reed remarked in regard to Item 3.2(g)(1) regarding the vendor options for cellular providers, suggested that Staff renegotiate with the cellular providers.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle and carried unanimously, the Report of the Rules Committee and the actions of February 22, 2006, were accepted. (11-0.)

3.4 Acceptance of status report on discussions with AT&T (SBC) regarding Project Lightspeed. CEQA: Not a Project. (City Manager's Office/Public Works)
(Deferred from 2/28/06 – Item 3.4)

Action: Deferred to March 14, 2006.

3.5 Discussion of required additional disclosures with regard to lobbyist fundraising activities, consideration of approval of an ordinance amending Chapter 12.12 of Title 12 of the San José Municipal Code (the Lobbying Ordinance) regarding fundraising and contributions, and direction to the City Attorney, as appropriate. (City Attorney)
(Rules Committee referral 2/15/06)

Documents Filed: (1) Memorandum from Council Member Reed, dated March 2, 2006, recommending Staff to amend the Ethics Ordinance to require disclosure of all contributions and to plug loopholes. (2) Memorandum from Council Member Cortese, dated March 6, 2006, recommending amendments to the Lobbyist Ordinance. (3) Memorandum from City Attorney Richard Doyle, dated March 3, 2006, transmitting the background on the Lobbyist Ordinance. (4) Letter from Thomas Mertens, Chair of San José Elections Commission regarding the Lobbyist Ordinance. (5) Letter from Saggau Derollo LLC, dated March 6, 2006 regarding Lobbyist fundraising activities.

City Attorney Richard Doyle presented an overview of the Lobbying Ordinance including the current Lobbyist disclosure requirements, options to amend the Lobbying Ordinance, and other jurisdictions, fundraising and contribution disclosure requirements.

3.5 (Cont'd.)

Motion: Council Member Yeager moved approval of the Staff recommendation, including that the Ordinance be amended to include information such as contribution amounts, and sources of contributions with regard to lobbyist fundraising at the behest of a City Official. Vice Mayor Chavez seconded the motion.

Council Member Williams stated he would not support the motion as he does not feel this action is necessary. Council Member Campos stated she would not support the motion as it would be an additional burden to the understaffed Offices of the City Attorney and the Office of the City Clerk. Council Member Pyle and Mayor Gonzales concurred.

Public Comment: Ross Signorino stated there should be transparency in government. Lobbyists Tom Saggau and Dustin DeRollo agreed that the reforms should be clear, understandable and enforceable.

City Attorney Richard Doyle responded to questions and comments from the Council Members.

Council Member Reed argued that the current ordinance doesn't affect property owners , developers, and unions and further, that the "20-hour rule" is the loophole that needs to be addressed. He moved approval of his memorandum dated March 2, 2006. The motion failed for lack of a second.

Substitute Motion: Council Member Cortese moved approval of Items 1 and 2 in his memorandum dated March 6, 2006 and return to Council in April 11, 2006 for discussion. Council Member Reed seconded the motion. The motion failed. (9-2. Noes: Campos, Chirco, Chavez, LeZotte, Nguyen, Pyle, Yeager, Williams; Gonzales.)

Substitute Motion: Council Member Williams moved to refer the memorandums from Council Member Reed and Council Member Cortese to the Rules Committee for further discussion. Council Member Yeager seconded the motion. The motion failed. (6-5. Noes: Campos, Chirco, LeZotte, Nguyen, Pyle; Gonzales.)

Substitute Motion: Council Member LeZotte moved to refer the item to Staff for more analysis, then return to Council. Council Member Reed seconded the motion. The motion failed. (6-5. Noes: Campos, Chirco, Nguyen, Pyle, Williams; Gonzales.)

Action: On a call for the question, the original motion carried and [Ordinance No. 27667](#), entitled: "An Ordinance of the City of San José Amending Chapter 12.12 of Title 12 of the San José Municipal Code by Adding a New Section 12.12.200 Entitled Lobbyist Fundraising Activity to Provide a Definition of the Term and Amending Section 12.12.420 to Require Additional Information and Disclosures", was passed for publication. (9-2. Noes: Campos, Williams.)

3.6 Acceptance of the Status Report on the City's Gift Ordinance, discussion of changes to be consistent with State Law, and direction to the City Attorney, as appropriate. (City Attorney)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated March 3, 2006, recommending acceptance of the report.

Public Comment: Ross Signorino spoke in support of the staff recommendation. Mark Trout spoke off topic.

Action: Upon motion by Council Member Reed, seconded by Council Member Yeager and carried unanimously the Status Report was accepted, with the City Attorney directed to bring back an amendment to the Gift Ordinance exception for "informational material". (11-0.)

3.7 Discussion of City Council obligation to disclose material facts and for changing Closed Session procedure; and direction to the City Attorney, as appropriate. (City Attorney)

Documents Filed: Memorandum from City Attorney Richard Doyle, dated March 3, 2006, reporting on disclosure and sharing of material facts.

City Attorney Richard Doyle summarized his report and draft policy. Council Member Reed argued in favor of greater disclosure.

Public Comment: Ross Signorino spoke in support

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed and carried unanimously, the report and recommendations were accepted, with the City Attorney directed to bring back for Council's consideration a Council Policy that addresses "material facts". (11-0.)

**4.1 Report of the Building Strong Neighborhoods Committee – February 23, 2006
Council Member Chirco, Chair**

Documents Filed: The Building Strong Neighborhoods Committee Report dated February 23, 2006.

- (a) Parkland Dedication Ordinance and Park Impact Ordinance Follow Up Discussion

This item was deferred to the Committee meeting of April 17, 2006.

- (b) Strong Neighborhoods Initiative 5-Year Summit Update

The Committee accepted the staff report with Staff requested to provide an update at the Committee meeting of March 20, 2006.

4.1 Report of the Building Strong Neighborhoods Committee – February 23, 2006 Council Member Chirco, Chair

- (c) Public Outreach Policy Report. Attachment: Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated February 14, 2006, recommending acceptance of the report.

The Committee accepted the staff report with Staff requested to return to the Committee with an expansion of the Public Outreach Policy and to include a section on infrastructure problems.

- (d) Downtown Clean Up Efforts - Dropped.
- (e) Anti-Graffiti/Anti-Litter Update Report. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services, Sara Hensley, dated February 23, 2006, recommending acceptance of the report.
- (f) Oral Petitions - There were none presented.
- (g) Adjournment - The meeting was adjourned at 2:05 p.m.

Action: Upon motion by Council Member Chirco, seconded by Council Member Pyle, the Building Strong Neighborhoods Committee Report and the actions of February 23, 2006, were accepted. (10-0-1. Absent: LeZotte.)

4.3 Acceptance of report and discussion on the accomplishments and activities for the Small Business Ambassador Program, the City's recently initiated program to assist small businesses through the development review and permitting process. CEQA: Not a Project. (Planning, Building and Code Enforcement) [Driving a Strong Economy Committee, 1/30/06 – Item 4.2a]

Documents Filed: (1) Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel, dated February 17, 2006, recommending acceptance of the report. (2) Staff presentation of the Small Business Ambassador Program, dated March 7, 2006.

Dennis Richardson, Planning, Building and Code Enforcement, presented the status report on the Small Business Ambassador Program. Brief questions from the Council followed.

Public Comment: Ross Signorino spoke in support and added that small businesses should be protected.

Action: Upon motion by Council Member Williams, seconded by Vice Mayor Chavez and carried unanimously, the report was accepted. (10-0-1. Absent: Reed.)

- 4.4 City Council appointment of specific individuals to the Stakeholder Advisory Committee for the San José Medical Center Land Use-Healthcare Study using recommended guidelines in order to maintain manageability and ensure diverse representation. CEQA: Not a Project. SNI: 13th Street. Council District 3. (Planning, Building and Code Enforcement)
(Deferred from 2/7/06 – Item 4.3 and 2/14/06 – Item 4.3 and 2/28/06 – Item 4.3)**

Action: Deferred to May 21, 2006.

NEIGHBORHOOD SERVICES

- 5.2 Approval of the following recommendations as an option to assist the Boys & Girls Club in gaining financial stability:**
- (a) That the Boys and Girls Club initiate restructuring efforts consistent with United Way strategies that will increase the agency's ability to reduce its operating deficit by closing the Japantown clubhouse.**
 - (b) Authorization to the Director of Parks, Recreation and Neighborhood Services to negotiate with Boys and Girls Club to assume the operation of the afterschool and summer programming at Empire Gardens Elementary School in an amount not to exceed \$100,000.**
- CEQA: Not a Project. Council Districts 2, 3, and 8. (Parks, Recreation and Neighborhood Services)
(Deferred from 2/14/06 – Item 5.2 and 2/28/06 – Item 5.3)**

Documents Filed: (1) Memorandum from City Clerk Lee Price, dated February 2, 2006, recommending approval to not proceed with the real estate exchange and adoption of a resolution. (2) Supplemental memorandum from Deputy City Manager Ed Shikada and Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated February 24, 2006, transmitting additional information.

Deputy City Manager Ed Shikada, Director of Parks, Recreation and Neighborhood Services Sara Hensley and City Manager Les White responded to questions and comments from the Council Members.

Public Comment: Speaking in support of the Boys and Girls Club were George Fokos, Philip Reynolds, Jr., Steve Tedesco, Virginia Benavides, Cassie Benavides, and William Garbett.

Council discussion ensued.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Cortese and carried unanimously, the following actions were approved: (1) Approval to NOT proceed with the real estate exchange between the City of San José and the Boys and Girls Club of Silicon Valley, at this time. (2) Adopt a resolution authorizing the City Manager to negotiate and execute options for the Boys and Girls Club to reorganize operations,

5.2 (Cont'd.)

including temporarily vacating the Japantown site; to seek appropriate locations and appropriate programming including, outreach to the surrounding areas. (3) Delete the reoccupation component. (4) Staff to work with Boys and Girls Club Executive Director Steve Tedesco to establish a fund development plan and staffing plan, to obtain feedback from the National Office and define the role of the Board. (5) Staff to report back on options for the new Japantown facility. (6) Staff to continue to work with the Boys and Girls Club on other options. (7) Staff to report back in three weeks. (11-0.)

PUBLIC SAFETY SERVICES

8.1 Acceptance of the report related to the impact of card room gambling on crime in the City of San José for the period July 1, 2004 to June 30, 2005. CEQA: Not a Project. (Police)

Action: Deferred to March 14, 2006.

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened at 5:52 p.m. to consider Item 9.2 in a Joint Session.

9.2 Initial discussion of the Mayor's March Budget Message. (Mayor) (Rules Committee referral 2/22/06)

Documents Filed: (1) Memorandum from Mayor Gonzales, dated March 2, 2006, regarding the preliminary March Budget Message for Fiscal Year 2006-2007. (2) The 2006-2007 City Manager's Budget Request and 2007-2011 Five Year Forecast and Revenue Projections for the General Fund and Capital Improvement Program, from the Office of the City Manager, dated February 2006. (3) The Mayor's Preliminary March Budget Message, dated March 7, 2006.

Public Comment: George Fokos offered ideas to increase productivity and freeze positions.

Mayor Gonzales provided the introduction. Mayor's Budget and Policy Director Joe Guerra and City Manager's Budget Director Larry Lisenbee responded to questions.

Council discussion and input provided. There was no Council Action.

The Joint Council/Redevelopment Board portion of the meeting was adjourned at 6:47 p.m.

NOTICE OF CITY ENGINEER'S AWARD OF CONSTRUCTION PROJECTS

On October 25, 2005, City Council approved a one year pilot program that delegated authority to the Director of Public Works to award or reject bids on construction projects where the base contract amount is below \$1,000,000. In accordance with this policy, the following is a list of projects that were awarded or rejected by the Director of Public Works in February 2006

AWARD:

<u>Project Name</u>	<u>Council District</u>	<u>Contractor</u>	<u>Contract Award Amount</u>	<u>Award Date</u>
Traffic Signal Modification at Booksin Avenue and Curtner Avenue	6	Beltramo Electric Inc.	\$179,320	2/27/06

RECESS/RECONVENE

The City Council recessed at 6:47 p.m. from the Joint City Council/Redevelopment Agency Meeting and reconvened at 7:10 p.m. in the Council Chambers, City Hall.

Present: Council Members - Campos, Chavez, Chirco, Cortese, LeZotte, Nguyen, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - None.

CEREMONIAL ITEMS

1.2 Presentation of Neighborhood Improvement Awards. (Parks, Recreation and Neighborhood Services)

Action: Mayor Gonzales and Margaret Wagenet, San José Beautiful, recognized the North Willow Glen Neighborhood Association, Santa Teresa Foothills Neighborhood Association, Palm Haven Restoration Committee, Tully Senter SNI NAC and Residents, Thor and Jan Wiles, College Park Neighborhood Association, and Sierramonte Middle School, as recipients of the "Neighborhood Improvement Awards.

1.4 Presentation of a commendation to InnVision Chief Operating Officer Christine Burroughs on the occasion of her retirement and for her meritorious service and devotion to supporting families and individuals to find their way home. (Cortese) (Rules Committee referral 2/22/06)

Action: Mayor Gonzales and Council Member Cortese recognized and commended Chief Operating Officer Christine Burroughs, InnVision, on occasion of her retirement.

1.11 Presentation of a commendation to Felton Owens for his 34 years of service to the East Side Union High School District and for his dedication and effort toward community improvement. (Cortese)

Action: Mayor Gonzales, Council Members Cortese and Campos recognized and commended Mr. Felton Owens for 34 years of dedicated service to the East Side Union High School District and community improvement.

**1.8 Presentation of commendations to the Willow Glen Neighborhood Association for their exemplary dedication and invaluable contributions to the San José community. (Yeager/Mayor)
(Rules Committee referral 3/1/06)**

Action: Mayor Gonzales and Council Member Yeager recognized and commended the Willow Glen Neighborhood Association for their outstanding dedication and important contributions to the San José community.

**1.9 Presentation of a commendation to the California Quake, for winning the Quake Shake & Bake 2006 Wheelchair Rugby Invitational. (LeZotte)
(Rules Committee referral 3/1/06)
To be heard in the Evening.**

Action: Mayor Gonzales and Council Member LeZotte recognized and commended California Quake for winning the “Shake & Bake 2006 Wheelchair Rugby Invitational”.

PUBLIC HEARINGS

**11.2 Consideration of an ordinance rezoning the real property located at/on the west side of South Winchester Boulevard, approximately 550 feet southerly of Stevens Creek Boulevard (369 Winchester Boulevard) (Dennee Glenford V Jr., Trustee, Owner; John Mackay, Developer) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow up to 4,681 square feet for retail commercial uses and a public eating establishment with drive-thru uses on a 0.64 gross acre site. CEQA: Exempt.
PDC05-077 - District 1
(Continued from 2/7/06 – Item 11.4)**

Action: Continued to April 4, 2006.

**11.3 Consideration of an ordinance rezoning the real property located on the southwest corner of Capitol Avenue and Mabury Road (781 N. Capitol Ave) (Messina Richard V. Messina Richard V Trustee & et al., Owner) from Unincorporated County to A(PD) Planned Development Zoning District to allow up to 199 single-family attached residential units and two existing single-family detached residence on a 10.5 gross acre site. CEQA: Mitigated Negative Declaration.
PDC05-060 - District 4
(Continued from 2/7/06 – Item 11.7)**

11.3 (Cont'd)

Action: Continued to March 21, 2006.

11.4 **Consideration of an ordinance rezoning the real property located on the north side of Villa Avenue, 150 feet easterly of Myrtle Street (969 Villa Avenue) (Helweh Sahel, et al., Owner; LG Developers, LP, Developer) from R-M Multiple Family Residence District to A(PD) Planned Development Zoning District to allow the demolition of an existing single-family detached residence and construction of up to four single-family detached residences on a 0.37 gross acre site. CEQA: Mitigated Negative Declaration.**

PDC05-026 - District 6

(Continued from 2/7/06 – Item 11.9)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC05-026, dated January 18, 2006, recommending approval on the subject property. (2) Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel dated February 23, 2006, transmitting the Planning Commission recommendation of the subject property. (3) Proofs of Publications of Notices of Public Hearings, executed on January 13, 2006 and January 24, 2006, submitted by the City Clerk. (4) Presentation copy of 969 Villa Development Project Overview, dated March 7, 2006, from L.G. Developers. (5) Letter from a member of the public, dated March 7, 2006.

Public Comment: Mayor Gonzales opened the public hearing. Carey Sutton, LG Developers, for the applicant described the project and noted that he worked hard to save the heritage Oak tree but the Walnut tree may not be saved. S. Victor Emmanuel spoke in opposition to the project. Joseph Louis, the applicant, spoke in favor of the project. Ed Hodges expressed concerns about drainage and the loss of the Walnut tree. The applicant stated, in rebuttal, that a retaining wall will be built pursuant to City standards. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Yeager, seconded by Council Member Reed, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 27668](#), entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the North Side of Villa Avenue, 150 Feet Easterly of Myrtle Street (969 Villa Avenue) to A(PD) Planned Development Zoning District”, was passed for publication with the following conditions: (1) Trees removed shall be mitigated by the planting of 20 trees. (2) The English Walnut tree removed shall be mitigated by the planting of two walnut trees in Guadalupe River Park Heritage Gardens. (11-0.)

- 11.5 Consideration of an ordinance rezoning the real property located on the west side of McCreery Avenue approximately 230 feet southerly of Alum Rock Avenue (1884 Alum Rock Avenue) (Dry Heron Development LLC, Owner) from A(PD) Planned Development to A(PD) Planned Development to increase the allowed number of single-family attached residences from 75 to 78 and modify development standards on a 1.44 gross acre site. CEQA: Negative Declaration.
PDC04-088 - District 5**

Action: Continued to March 21, 2006 per Orders of the Day.

- 11.6 Consideration of an ordinance rezoning the real property located on the south side of Taylor Street approximately 230 feet easterly of Elm Street (846 W. Taylor Street) (Kim Chong Kil et al., Owner/Developer) from R-2 Two Family Residential Zoning District to A(PD) Planned Development Zoning District to allow four single-family detached residences on a 0.37 gross acre site. CEQA: Mitigated Negative Declaration.
PDC05-073 - District 6**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC05-073, dated February 14, 2006, recommending approval on the subject property. (2) Memorandum from Acting Director of Planning, Building and Code Enforcement Joe Horwedel dated February 23, 2006, transmitting the Planning Commission recommendation of the subject property. (3) Proof of Publication of Notice of Public Hearing, executed on February 10, 2006, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez, the recommendation of the Planning Commission and the Planning Director was approved, and [Ordinance No. 27669](#), entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the South Side of West Taylor Street Approximately 230 Feet Northeast of Elm Street (846 West Taylor Street) to A(PD) Planned Development Zoning District", was passed for publication. (10-0-1. Absent: Campos.)

- 11.7 Consideration of an ordinance rezoning the real property located at the southeast corner of Southwest Expressway and Fruitdale Avenue (John T. Vidovich, et al., Owner) from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to increase the number of attached residential units from 500 to 502, to eliminate 250,000 square feet of commercial (office and retail) to reduce the maximum amount of retail from 30,000 square feet to 29,225 square feet and to modify the development standards for a 12.7 acre site.
PDC05-095 - District 6**

Action: Continued to April 18, 2006.

- 11.8 Consideration of an ordinance rezoning the real property located on the west side of Pomona Avenue, approximately 140 feet southerly of Alma Avenue from CP Commercial Pedestrian Zoning District to R-1-8 Single-Family Residential Zoning District to allow one single-family detached residence use on a 0.16 gross acre site (1425 Pomona Avenue) (Armando T. and Cristina L. Silva, Owners). No Planning Commission Required. SNI: Washington. CEQA: EIR Resolution 65459.
C05-119 - District 7**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C05-119, dated February 14, 2006, recommending approval on the subject property. (2) Proof of Publication of Notice of Public Hearing, executed on February 24, 2006, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Yeager, seconded by Vice Mayor Chavez, the recommendation of the Planning Commission was approved, and Ordinance No. 27670, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the West Side of Pomona Avenue, Approximately 140 Feet Southerly of Alma Avenue (1425 Pomona Avenue) to R-1-8 Residence Zoning District", passed for publication. (10-0-1. Absent: Campos.)

- 11.9 Consideration of an ordinance rezoning the real property located at/on the west side of Flint Avenue, approximately 130 feet northerly of Peanut Brittle Drive (2827 Flint Avenue) (East Valley Baptist Church, Owner; Cell Site Associates, LLC, Jay Thomas, Developer) from A Agriculture Zoning District to R-1-8 Residential Zoning District on a 3.61 gross acre site. No Planning Commission Required. CEQA: Resolution No. 65459.
C05-087 - District 8**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C05-119, dated February 14, 2006, recommending approval on the subject property. (2) Proof of Publication of Notice of Public Hearing, executed on February 24, 2006, submitted by the City Clerk.

Public Comment: Mayor Gonzales opened the public hearing. There was no testimony from the floor. Mayor Gonzales closed the public hearing.

Action: Upon motion by Council Member Cortese, seconded by Council Member Yeager, the recommendation of the Planning Commission was approved and Ordinance No. 27671, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated West Side of Flint Avenue, Approximately 130 Feet Northerly of Peanut Brittle Drive to R-1-8 Residential Zoning District", was passed for publication. (10-0-1. Absent: Campos.)

- 11.10 Consideration of an ordinance rezoning the real property located on the southeast corner of New Jersey Avenue and Harris Avenue (2412 New Jersey Avenue) (Zaknich, Anthony J. Trustee, & et al., Owner: The Cullen Group, Developer) from R-1-8 Residence District to the A(PD) Planned Development Zoning District to allow six single-family detached residences on a 0.74 gross acre site. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (6-0-1). CEQA: Mitigated Negative Declaration.
PDC05-093 - District 9**

Action: Continued to March 21, 2006 per Orders of the Day.

- 11.11 Consideration of the following development proposals in connection with the real property located on the northwest corner of Broadacres and Skyfarm Drives (6664 Broadacres Drive) on a 0.82 gross acre site (SummerHill Homes, Elaine Breeze, Owner). CEQA: Exempt.**
- (a) PDC05-118 – Consideration of an ordinance rezoning the property from Planned Development Conforming Rezoning to A(PD) Planned Development Zoning District to allow 5 single-family detached residential units on five existing lots, and a reduction in the minimum front setback from 20 feet to 18 feet.**
 - (b) PD05-091 – Adoption of a resolution approving a Planned Development Permit to allow construction of up to 5 single-family detached residential units. No Planning Commission required.**

District 10

Action: Continued to March 21, 2006.

- 11.12 Consideration of an ordinance amending Title 20 of the San José Municipal Code, the Zoning Code, to further define and differentiate types of office uses, to set minimum sizes for industrial and commercial condominiums and to make other clarifying changes, including changes to Section 20.40.100 of Chapter 20.40, Section 20.50.100 of Chapter 20.50, Section 20.70.100 of Chapter 20.70 and Chapters 20.175 and 20.200 of the Zoning Code; and to make non-substantive clarifying changes to Section 20.30.100 of Chapter 20.30 of the Zoning Code.
PP06-012 - Citywide**

Action: Continued to March 21, 2006.

TRANSPORTATION & AVIATION SERVICES

- 6.2 (a) **Approval of Request for Proposals and the criteria and process by which the City shall select a design-build entity for the Norman Y. Mineta San José International Airport Terminal Area Improvement Program.**
- (b) **Adoption of a Resolution:**
- (1) **Finding that the cost of the proposed design-build contract for the Terminal Area Improvement Program is likely to exceed \$5,000,000, and that the design-build procurement process is likely to save money or result in faster project completion than if the City used a procurement process involving its normal competitive bidding process.**
 - (2) **Authorizing the Public Works Director to issue addenda during the Request for Proposals process to make revisions to the Request for Proposals that are consistent with the scope and selection criteria as approved by Council.**

CEQA: Resolutions No. 67380 and 71451, PP 06-022. (Airport/Public Works/City Manager's Office)

Documents Filed: (1) Memorandum from Director of Aviation William Sherry, Director of Public Works Katy Allen and Deputy City Manager Terry Roberts, dated February 13, 2006, recommending approval of the RFP, criteria and process, and adoption of a resolution. (2) Request for Proposals for the Terminal Area Improvement Program Design Build, dated February 17, 2006. (3) Staff presentation dated March 7, 2006. (4) Letter from Pat Dando, CEO and President, San José Silicon Valley Chamber of Commerce, dated February 28, 2006, regarding the expansion of the airport. (5) Letter from Southwest Airlines, dated February 27, 2006, regarding the expansion of the airport.

Director of Aviation William Sherry presented the Airport Terminal Improvements Program Request for Proposal and Design Build Finding.

Director of Aviation William Sherry, Deputy City Manager Terry Roberts and Director of Public Works Katy Allen responded to Council questions and comments.

Public Comment: Nancy Ostraski, AEA, IFPTE Local 21 expressed concern and requested having a seat on the selection committee. William Garbett criticized the proposal.

Action: Upon motion by Council Member Williams, seconded by Council Member Pyle and carried unanimously, the request for proposals, criteria and process were approved and [Resolution No. 73090](#), entitled: "A Resolution of the Council of the City of San José Finding that the Cost of the Proposed Design-Build Contract for the Terminal Area Improvement Program is Likely to Exceed \$5,000,000 and that the Design-Build Procurement Process is Likely to Saver Money or Result in Faster Project Completion and Authorizing the Director of Public Works to Issue Addenda During the Request for Proposal Process", was adopted. (10-0-1. Absent: Campos.)

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 (a) Acceptance of staff report regarding the status and issues concerning the City's Commercial Solid Waste Collection System.
- (b) Approval of Phase I policy direction regarding minor improvements to the system and direct staff to return with recommended actions for implementation.
- (c) Direction to staff to investigate Phase II concepts regarding the creation of an exclusive "Clean & Green Downtown" collection district, and return with information and recommendations regarding actions for implementation.

CEQA: Negative Declaration, PP92-11-308. (Environmental Services)

Documents Filed: (1) Memorandum from Director of Environmental Services John Stufflebean, dated February 16, 2006, recommending acceptance of the report. (2) Staff presentation of Commercial Solid Waste System Changes, dated March 7, 2006.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed and carried unanimously, the report was approved, with Staff directed to bring back: (1) Incentives and/or fines to ensure that bins are kept clean. (2) A procedure to withdraw franchise agreements from haulers who do not respond to customer complaints. (3) A systematic or graduated method to take corrective action when haulers fail to perform. (10-0-1. Absent: Campos.)

- 7.2 **Adoption of a resolution authorizing the City Manager to negotiate and execute amendments to agreements among cities of San Jose, Santa Clara, Milpitas and West Valley Sanitation District to reflect the transfer of one million gallons of wastewater capacity in the San Jose/Santa Clara Water Pollution Plant from West Valley Sanitation District to the City Of Milpitas. CEQA: Not a Project. (Environmental Services)**
(Deferred from 2/28/06 – Item 7.2)

Public Comment: Robert Reid, General Manager, West Valley Sanitation District, spoke in support of a deferral of action for one week, and added he would like to complete the transfer. Darryl Wong, City of Milpitas, spoke in support of the transfer.

Action: Action was deferred to March 14, 2006, with Staff directed to provide a supplemental memorandum outlining why the extra capacity is not needed by the City of San José.

JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened to consider Item 9.1 in a Joint Session.

9.1 Acceptance of the Quarterly Report on the Citywide Capital Improvement Program (CIP) including Parks, Library, and Public Safety Bond Projects, Strong Neighborhoods Initiative (SNI) Projects, and Redevelopment Agency funded projects. CEQA: Not a Project. (City Manager's Office/Redevelopment Agency) (Deferred from 2/28/06 – Item 9.1)

Documents Filed: Quarterly Status Report, dated March 7, 2006.

Action: Report Accepted. (9-0-2. Absent: Campos, Reed.)

The Joint Council/Redevelopment Board portion of the meeting was adjourned.

OPEN FORUM

- (1) William Garbett suggested changing back the names of the Council Committees.
- (2) Mark Trout voiced his own religious views.
- (3) Robert Apgar, Jr. expressed personal observations.

ADJOURNMENT

The Council of the City of San José adjourned at 9:10 p.m.

Minutes Recorded, Prepared and Respectfully Submitted by,

Lee Price, MMC
City Clerk

smd/3-7-06MIN

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